

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

1645

In re Patent Application of

Atty Dkt. 1498-151

C# M#

MURPHY et al

Group Art Unit: 1645

Serial No. 09/600,398

Examiner: Hines, J.

Filed: July 17, 2000

Date: October 12, 2001

Title: ANTIBODY SENSITIVITY TESTING



RECEIVED

OCT 16 2001

TECH CENTER 1600/2900

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**RESPONSE/AMENDMENT/LETTER**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

**Fees are attached as calculated below:**

Total effective claims after amendment 0 minus highest number  
previously paid for 20 (at least 20) = 0 x \$ 18.00 \$ 0.00

Independent claims after amendment 0 minus highest number  
previously paid for 3 (at least 3) = 0 x \$ 84.00 \$ 0.00

If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper) \$ 0.00

Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months) \$ 0.00

Terminal disclaimer enclosed, add \$ 110.00 \$ 0.00

☐ First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$740.00) \$ 0.00  
☐ Please enter the previously unentered, filed  
☐ Submission attached

**Subtotal \$ 0.00**

If "small entity," then enter half (1/2) of subtotal and subtract -\$ 0.00  
☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee (\$180.00) \$ 0.00

Assignment Recording Fee (\$40.00) \$ 0.00

Other: 0.00

**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.  
By Atty: Arthur R. Crawford, Reg. No. 25,327

Signature: 

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of

MURPHY et al

Serial No. 09/600,398

Filed: July 17, 2000

For: ANTIBODY SENSITIVITY TESTING

Atty. Ref.: 1498-151

Group: 1645

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\* \* \* \* \*

October 12, 2001

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**RESPONSE**

This responds to the Official Action of September 19, 2001 in which restriction is required between three groups of claims. Applicants elect the invention of Group II, a method of determining the susceptibility of bacteria to a reagent, which, as stated in the action, includes at least claims 4-20 and 36.

The requirement is *traversed* to the extent other claims fall within this subject matter and should be examined in Group II.

Consider first claim 1 which states:

The use of an assay for adenylate kinase in an in vitro test for *the effect of external conditions* on the growth characteristics of bacterial cells. (emphasis added).

Claim 1 is thus not merely related to the assessment of the growth stage of the bacteria, as apparently indicated in the action in the description of the Group I subject matter. Also, claim 2 plainly states that the use of claim 1 may include a test for the

sensitivity of a bacteria to an antibiotic or biostatic agent. For these reasons claims 1 and 2 have unity with claims 4-20.

Consider also the test kits of claims 28-34 which also form part of the elected subject matter. The relationship is clearly described in applicants' specification at page 11, line 30 to page 12, line 13. These kits also form part of the Group II subject matter.

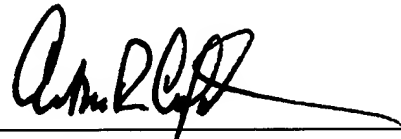
Accordingly, applicants request reconsideration of the listing of claims under Group II and an expansion of same leading to examination of claims 1, 2, 4-20, 28-34 and 36.

When examining these claims please take into account the documents cited in the International Search Report which is part of the record of this application. Copies of the citations are also of record as indicated in the Notification of Acceptance under 35 U.S.C. §371 communication dated August 2, 2000.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_



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